IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9532 of 2001

HONOURABLE MR.JUSTICE KS JHAVERI

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DEPUTY EXECUTIVE ENGINEER - Petitioner(s)
Versus
MANSUKHBHAI JETHABHAI - Respondent(s)

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Appearance :
MS SEJAL K MANDAVIA for Petitioner(s) : 1,
MR GM JOSHI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI
Date : 29/11/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 4th May 2001 passed by the Labour Court, Junagadh in Reference (LCJ) No.70 of 1997 whereby the Labour Court directed the petitioner to reinstate the respondent in service along with full back wages and other consequential benefits.

2. The short facts of the case are that the respondent was working with petitioner as peon since 1.6.1983. His services were terminated without following the procedure of law. The respondent, therefore, raised a dispute which was referred to the Labour Court and registered as Reference (LCJ) No.70 of 1997. The Labour Court, passed the aforesaid award which is

challenged in the present petition.

3. In pursuance of the order dated 3rd September 2002 the respondent workman has already been reinstated and has been paid other benefits except back wages which was stayed by this Court. Therefore it would not appropriate to disturb the said position at this stage. In any case, I have perused the relevant documents on record and I am in complete agreement with the reasonings adopted and findings arrived at by the Labour Court. Therefore, the only question remains to be decided is with regard to back wages.

4. Learned counsel for the petitioner submitted that there is a gross delay in raising the dispute in question and there was no justification for grant of back wages. Learned counsel for the respondent is not able to contest this position. Even from the record it is evident that the Labour Court has not given any reasons for grant of back wages. The law on the subject is well settled. In the case of Ram Ashrey Singh Vs. Ram Bux Singh, reported in (2003) II LLJ 176, it is held that the workman had no automatic entitlement to back wages since it is discretionary and has to be dealt with in accordance with facts and circumstances of each case. In the case of General Manager, Haryana Roadways Vs. Rudhan Singh, reported in JT 2005(6) SC 137 (=2005 (5) SCC 591), after referring to various decisions on the said subject, the

Apex Court held that order for payment of back wages should not be passed in mechanical manner, but a host of factors are to be taken into consideration before passing any such order.

5. In the premises aforesaid, the award of the Labour Court granting back wages is quashed and set aside. The rest of the award is confirmed. The award of the Labour Court is modified to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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